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## DEPARTMENT OF TRANSPORTATION

### Saint Lawrence Seaway Development Corporation

#### 33 CFR Part 402

[Docket No. SLSDC 2016-0003]

RIN 2135-AA38

#### Tariff of Tolls

**AGENCY:** Saint Lawrence Seaway Development Corporation, DOT.

**ACTION:** Final rule.

**SUMMARY:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls in their respective jurisdictions. The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising its regulations to reflect the fees and charges levied by the SLSMC in Canada starting in the 2016 navigation season, which are effective only in Canada. An amendment to increase the minimum charge per lock for those vessels that are not pleasure craft or subject in Canada to tolls under items 1 and 2 of the Tariff for full or partial transit of the Seaway will apply in the U.S. (See Supplementary Information.)

**DATES:** This rule will become effective on March 21, 2016.

**ADDRESSES:** *Docket:* For access to the docket to read background documents or comments received, go to <http://www.Regulations.gov>; or in person at the Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor,

Room W12-140, Washington, D.C. 20590-001, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** Carrie Mann Lavigne, Chief Counsel, Saint Lawrence Seaway Development Corporation, 180 Andrews Street, Massena, New York 13662; 315/764-3200.

**SUPPLEMENTARY INFORMATION:** The Saint Lawrence Seaway Development Corporation (SLSDC) and the St. Lawrence Seaway Management Corporation (SLSMC) of Canada, under international agreement, jointly publish and presently administer the St. Lawrence Seaway Tariff of Tolls (Schedule of Fees and Charges in Canada) in their respective jurisdictions. A Notice of Proposed Rulemaking was published in the **Federal Register** on February 9, 2016. No comments were received. The joint regulations will become effective in Canada on March 21, 2016. For consistency, because these are joint regulations under international agreement, and to avoid confusion among users of the Seaway, the SLSDC finds that there is good cause to make the U.S. version of the amendments effective on the same date.

The Tariff sets forth the level of tolls assessed on all commodities and vessels transiting the facilities operated by the SLSDC and the SLSMC. The SLSDC is revising 33 CFR 402.12, “Schedule of tolls”, to reflect the fees and charges levied by the SLSMC in Canada beginning in the 2016 navigation season. With one exception, the changes affect the tolls for commercial vessels and are applicable only in Canada. The collection of tolls by the SLSDC on commercial vessels transiting the U.S. locks is waived by law (33 U.S.C. 988a(a)). Accordingly, no notice or comment is necessary on these amendments.

The SLSDC is amending 33 CFR 402.12, “Schedule of tolls”, to increase the minimum charge per vessel per lock for full or partial transit of the Seaway from \$26.92 to \$27.46. This

charge is for vessels that are not pleasure craft or subject in Canada to the tolls under items 1 and 2 of the Tariff. This increase is due to higher operating costs at the locks.

**Regulatory Notices:** Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://dms.dot.gov>.

### **Regulatory Evaluation**

This regulation involves a foreign affairs function of the United States and therefore Executive Order 12866 does not apply and evaluation under the Department of Transportation's Regulatory Policies and Procedures is not required.

### **Regulatory Flexibility Act Determination**

I certify this regulation will not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls primarily relate to commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne mostly by foreign vessels.

### **Environmental Impact**

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.) because it is not a major federal action significantly affecting the quality of the human environment.

### **Federalism**

The Corporation has analyzed this rule under the principles and criteria in Executive Order 13132, dated August 4, 1999, and has determined that this rule does not have sufficient federalism implications to warrant a Federalism Assessment.

### **Unfunded Mandates**

The Corporation has analyzed this rule under Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4, 109 Stat. 48) and determined that it does not impose unfunded mandates on State, local, and tribal governments and the private sector requiring a written statement of economic and regulatory alternatives.

### **Paperwork Reduction Act**

This regulation has been analyzed under the Paperwork Reduction Act of 1995 and does not contain new or modified information collection requirements subject to the Office of Management and Budget review.

### **List of Subjects in 33 CFR Part 402**

Vessels, Waterways.

Accordingly, the Saint Lawrence Seaway Development Corporation is amending 33 CFR part 402, Tariff of Tolls, as follows:

### **PART 402 – TARIFF OF TOLLS**

- 1. The authority citation for part 402 continues to read as follows:

**Authority:** 33 U.S.C. 983(a), 984(a)(4), and 988, as amended; 49 CFR 1.52.

- 2. In § 402.3, add definitions of “Gateway Incentive”, “Toll reduction”, and “Volume commitment” in alphabetical order to read as follows:

### **§ 402.3 Interpretation.**

\* \* \* \* \*

Gateway Incentive means a percentage reduction, as part of an incentive program, negotiated and offered on applicable cargo tolls for shipments of a specific commodity diverted to the Seaway from a competing gateway.

\* \* \* \* \*

Toll reduction means the negotiated percentage of refund on applicable cargo tolls under the Gateway Incentive program.

\* \* \* \* \*

Volume commitment means the negotiated annual cargo tonnage, with a minimum of 250,000 metric tons per year, a shipper must reach for the negotiated toll reduction under the Gateway Incentive to become applicable.

\* \* \* \* \*

- 3. In § 402.4, revise paragraph (a) to read as follows:

**§ 402.4 Tolls.**

(a) Every vessel entering, passing through or leaving the Seaway shall pay a toll that is the sum of each applicable charge in § 402.12. Each charge is calculated on the description set out in column 1 of § 402.12 and the rate set out in column 2 or 3.

\* \* \* \* \*

§§ 402.8, 402.9. 402.10, 402.11, 402.12, and 402.13 [Redesignated as §§ 402.9, 402.10, 402.11, 402.12, 402.13, and 402.14]

- 4 . Redesignate §§ 402.8, 402.9. 402.10, 402.11, 402.12 and 402.13 as §§ 402.9, 402.10, 402.11, 402.12, 402.13 and 402.14, respectively.

- 5. Add § 402.8 to read as follows:

**§ 402.8 Gateway Incentive.**

- (a) To be eligible for the Gateway Incentive, cargoes, must presently be moving between a specific origin and destination via other competing gateways.
- (b) To be eligible for the refund applicable under the Gateway Incentive program, a shipper, or its representative, must:
  - (1) Submit an application to the Manager for the proposed movement (cargo/origin/destination) to be approved under the rules of the Gateway Incentive program;
  - (2) Supply to the Manager the information proving that the proposed movement is currently done via a competing gateway;
  - (3) Negotiate with the Manager the terms of the proposal, that is an applicable toll reduction, a volume commitment, and the duration of the proposal.
- (c) The shipper, or its representative, will qualify annually for the negotiated toll reduction upon completion of the annual volume commitment during the agreed upon duration period.
- (d) The Gateway Incentive applies only to movements of qualified cargoes done after the commencement date of the qualified Gateway Incentive. Movements done prior to the date of commencement of the Gateway Incentive will be ineligible for the rebate.
- (e) The shipper, or its representative, will provide the Manager with a request for the Gateway Incentive refund, together with copies of any documents required to support the request, within sixty (60 days) of the close of the navigation season. Requests for refunds should be submitted to the Manager, Revenue and Forecast, who will be responsible for reviewing all documents and data and recommending the refund under the Gateway Incentive.

(f) The negotiated Gateway Incentive percentage of tolls reduction paid in respect of qualifying cargo shipped will be refunded by the Manager after the close of the navigation season, once the Manager has confirmed through the review of submitted support documents that the shipper has met the volume commitment. The SLSMC reserves the right to require the ultimate origin and destination of cargoes to validate the commitment.

- 6. In newly redesignated § 402.10, revise paragraph (a) to read as follows:

**§ 402.10 Post-clearance date operational surcharges.**

(a) Subject to paragraph (b) of this section, a vessel that reports for its final transit of the Seaway from a place set out in column 1 of § 402.12 within a period after the clearance date established by the Manager and the Corporation set out in column 2 of § 402.12 shall pay operational surcharges in the amount set out in column 3 of § 402.12, prorated on a per-lock basis.

\* \* \* \* \*

- 7. Revise newly redesignated § 402.12 to read as follows:

**§ 402.12 Schedule of tolls.**

Column 1		Column 2	Column 3
		Rate (\$)	Rate (\$)
		Montreal to or from Lake Ontario (5 locks)	Welland Canal – Lake Ontario to or from Lake Erie (8 locks)
Item	Description of Charges		
1.	Subject to item 3, for complete transit of the Seaway, a composite toll, comprising:		
	(1) a charge per gross	0.1061	0.1698

Column 1		Column 2	Column 3
		Rate (\$) Montreal to or from Lake Ontario (5 locks)	Rate (\$) Welland Canal – Lake Ontario to or from Lake Erie (8 locks)
Item	Description of Charges		
	registered ton of the ship, applicable whether the ship is wholly or partially laden, or is in ballast, and the gross registered tonnage being calculated according to prescribed rules for measurement or under the International Convention on Tonnage Measurement of Ships, 1969, as amended from time to time <sup>1</sup>		
(2)	a charge per metric ton of cargo as certified on the ship's manifest or other document, as follows:		
	(a) bulk cargo	1.0997	0.7506
	(b) general cargo	2.6498	1.2013
	(c) steel slab	2.3981	0.8600
	(d) containerized cargo	1.0997	0.7506
	(e) government aid cargo	n/a	n/a
	(f) grain	0.6756	0.7506
	(g) coal	0.6756	0.7506
(3)	a charge per passenger per lock	1.6476	1.6476

<sup>1</sup> Or under the US GRT for vessels prescribed prior to 2002.



Column 1		Column 2	Column 3
		Rate (\$) Montreal to or from Lake Ontario (5 locks)	Rate (\$) Welland Canal – Lake Ontario to or from Lake Erie (8 locks)
Item	Description of Charges		
	(4) a lockage charge per Gross Registered Ton of the vessel, as defined in item 1(1), applicable whether the ship is wholly or partially laden, or is in ballast, for transit of the Welland Canal in either direction by cargo ships,	n/a	0.2827
	Up to a maximum charge per vessel	n/a	3,955
2.	Subject to item 3, for partial transit of the Seaway	20 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3)	13 per cent per lock of the applicable charge under items 1(1), 1(2) and 1(4) plus the applicable charge under items 1(3)
3.	Minimum charge per vessel per lock transited for full or partial transit of the Seaway	27.46 <sup>2</sup>	27.46
4.	A charge per pleasure craft per lock transited for full or partial transit of the Seaway, including applicable federal	30.00 <sup>4</sup>	30.00

<sup>2</sup> The applicable charged under item 3 at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) will be collected in U.S. dollars. The collection of the U.S. portion of tolls for commercial vessels is waived by law (33U.S.C. 988a(a)). The other charges are in Canadian dollars and are for the Canadian share of tolls.

Column 1		Column 2	Column 3
		Rate (\$) Montreal to or from Lake Ontario (5 locks)	Rate (\$) Welland Canal – Lake Ontario to or from Lake Erie (8 locks)
Item	Description of Charges		
	taxes <sup>3</sup>		
5.	Under the New Business Initiative Program, for cargo accepted as New Business, a percentage rebate on the applicable cargo charges for the approved period	20%	20%
6.	Under the Volume Rebate Incentive program, a retroactive percentage rebate on cargo tolls on the incremental volume calculated based on the pre-approved maximum volume	10%	10%
7.	Under the New Service Incentive Program, for New Business cargo moving under an approved new service, an additional percentage refund on applicable cargo tolls above the New Business rebate	20%	20%

<sup>4</sup> The applicable charge at the Saint Lawrence Seaway Development Corporation's locks (Eisenhower, Snell) for pleasure craft is \$30 U.S. or \$30 Canadian per lock.

Issued at Washington, D.C. on March 11, 2016.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

**Carrie Lavigne,**

*Chief Counsel.*

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<sup>3</sup> \$5.00 discount per lock applicable on ticket purchased for Canadian locks via paypal.  
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